Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Replacement of Part 90 by Part 88 to	)	
Revise the Private Land Mobile Radio	)	
Services and Modify the Policies	)	
Governing Them	)	PR Docket No. 92-235
	)	
and	)	
	)	
Examination of Exclusivity and	)	
Frequency Assignment Policies of the	)	
Private Land Mobile Radio Services	)	

TO: The Commission

COMMENTS OF UTC
ON FURTHER NOTICE OF PROPOSED RULE MAKING

Jeffery L. Sheldon
Sean A. Stokes
Thomas E. Goode

UTC, The Telecommunications Association
1140 Connecticut Ave., NW
Suite 1140
Washington, DC 20036

November 20, 1995

TABLE OF CONTENTS

Summary

The present system of frequency management has adequately served the needs of users and substantially lessened FCC involvement in the coordination and application-review process. However, there is no longer a compelling need for the FCC to maintain 20 separate radio services, and UTC concurs that some consolidation would be technically feasible.

UTC believes that the most rational basis for service consolidation is to look at the relative criticality of the functions served by users in each of the various services. Different industries may use mobile radio for different applications (e.g., locomotive control; law enforcement dispatch; utility service restoration; etc.) but from a coordination and licensing standpoint, differences in the applications or functions supported by the radio transmitter are only significant in terms of the criticality of function and the amount of protection to be afforded to the system. UTC recommends that the current radio services be divided into three service categories, which are ranked according to the relative criticality of these services in accordance with the FCC's mandate to provide radio service "for the purpose of promoting safety of life and property." requirements.

UTC believes that the most rational basis for service consolidation is to look at the relative criticality of the functions served by users in each of the various services. Different industries may use mobile radio for different applications (e.g., locomotive control; law enforcement dispatch; utility service restoration; etc.) but from a

coordination and licensing standpoint, differences in the applications or functions supported by the radio transmitter are only significant in terms of the criticality of function and the amount of protection to be afforded to the system. UTC recommends that the current radio services be divided into three service categories, which are ranked according to the relative criticality of these services in accordance with the FCC's mandate to provide radio service "for the purpose of promoting safety of life and property." Specifically, UTC recommends the consolidation of the existing services and the creation of three new categories: "Emergency Response,""Public Service" and "Business/Commercial."

The Emergency Response Service would consist of police, fire and emergency medical services. The public service category includes those services that provide critical logistical functions in support of the general population, including public utility services (such as electric, water and gas services). Users in this category are typically state or local government entities, or private entities that provide essential public services in compliance with Federal, State or local requirements. Thus, in the Public Service category, availability of a clear channel is just as important as and the use of that channel.

The "Business/Commercial" category would be available to all other private radio users. Even though many of the users in this category could no doubt demonstrate that private radio allows them to conduct business in a safer, more efficient manner, these industries are typically not required to respond to emergency life-and-death situations,

nor are they engaged in the delivery of vital public services such that delay of response (such as through delay of communication) would create a threat to life or property.

To the extent channels cannot be secured within an applicant's consolidated service pool, UTC recommends that interservice sharing be permitted from a higher-ranked service to a lower ranked service, but not *vice versa*. That is, Emergency Response eligibles could secure access to channels in the Public Service or Business/Commercial category; and Public Service eligibles could secure access to channels in the Business/Commercial category. By precluding interservice sharing from lower-priority services into higher-priority services, the channels needed for these services will be preserved.

With respect to frequency coordination, UTC is confident that the coordinators in each pool will be able to devise means of exchanging data either real-time, using a shared database. UTC has serious concerns about the prospect of "coordinator shopping" in a competitive coordination environment; that is, an applicant securing coordination simply based on price, with no consideration of quality. standards for coordination. UTC therefore recommends that the FCC adopt sufficiently narrow standards for frequency coordination, and limit coordination of channels in a pool to only those coordinators that have been certified to coordinate eligibles in that pool.

UTC sees a benefit in affording private land mobile radio licensees the option to obtain a form of exclusivity. Access to spectrum in which the licensee is assured

interference protection from additional licensees will allow for the introduction of trunking and other technologies that require the availability of dedicated frequencies. Accordingly, UTC supports the creation of a "shared-exclusivity" licensing option for the Public Service Pool, under which a licensee may "earn" protection for a specific service area. Specifically, existing licensees would have the option to enter into contractual agreements with neighboring co-channel licensees to establish areas of exclusive assignment, thereby precluding new co-channel licensees from being licensed within the area, except by mutual agreement of all parties to the exclusivity plan. To earn the shared-exclusivity protection cap on new assignments, all licensees on the channel must agree to convert to narrowband technology, or meet an equivalent efficiency standard within a specified time period. internal communications requirements.

UTC supports the concept of allowing a "non-commercial" private land mobile radio licensee to lease **"reserve"** capacity on its system. "Reserve" capacity is capacity for which the licensee has a legitimate system requirement but at times may not be utilized. In order to ensure that the leased capacity is truly "reserve" and to discourage speculators, the Commission should require that private land mobile radio licensees satisfy all channel loading requirements on the basis of their internal systems. UTC's support of allowing private system licensees to lease reserve capacity should not be construed as support for the direct licensing of third-party entrepreneurs to provide commercial services to eligible end-users in the private land mobile radio bands.

UTC opposes the FCC's proposal to introduce competitive bidding in the private land mobile bands below 800 MHz. Competitive bidding in these bands is inconsistent

with current and pending FCC auction authority and is impractical for these heavily-used bands. Even under the provisions expanding the FCC's current auctioning authority in the Budget Reconciliation bill pending before Congress, auctions would not be permitted for the Emergency Response or Public Service radio service pools.

Financial forces such as auctions and user fees are an inappropriate means of effecting market changes for the vast majority of users in the private land mobile community. Rather than relying on the use of auctions or fees, UTC's preferred marketplace incentive is a change in an incumbent's licensing status. UTC continues to believe that the most appropriate and effective means of encouraging licensees to transition to narrowband or more efficient technology is to relegate wideband licensees to secondary status on a date certain if they do not meet the adopted efficiency standard by that date.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Replacement of Part 90 by Part 88 to	)	
Revise the Private Land Mobile Radio	)	
Services and Modify the Policies	)	
Governing Them	)	PR Docket No. 92-235
	)	
and	)	
	)	
Examination of Exclusivity and	)	
Frequency Assignment Policies of the	)	
Private Land Mobile Radio Services	)	

TO: The Commission

COMMENTS OF UTC
ON FURTHER NOTICE OF PROPOSED RULE MAKING

Pursuant to Section 1.415 of the FCC's Rules, UTC, The Telecommunications Association (UTC), respectfully submits the following comments on the *Further Notice of Proposed Rule Making* (*FNPRM*), FCC 95-255, released June 23, 1995, in the above-captioned matter.[1] In this proceeding, the FCC has adopted rules and policies on future use of the private land mobile radio (PLMR) spectrum below 512 MHz, and has requested further comment on ways of promoting more efficient use of this limited spectrum.

---

[1] By *Order*, DA 95-2090, released October 2, 1995, the dates for filing comments and replies in response to the *FNPRM* were extended to November 20, 1995, and January 5, 1996, respectively.

As the national representative on communications matters for the nation's electric, gas and water utilities and natural gas pipelines, and as the FCC's certified frequency coordinator for the Power Radio Service, UTC has been an active participant throughout this proceeding. UTC is therefore pleased to have this opportunity to respond to the issues raised in the *FNPRM.* In addition, UTC offers its recommendations on the consolidation of radio services in response to the FCC's request for further industry comment on this issue.

I. Consolidation of Service Pools

A. Background

The original *Notice of Proposed Rulemaking* in this docket proposed consolidating the various radio services in the bands below 800 MHz into three broad categories: a Public Safety radio service; Non-Commercial radio service; and a General Category radio service. The FCC also proposed to allow competitive coordination in each of the new radio services.

Because of a wide difference of opinion among the commenters as to the desirability of consolidating service pools, as well as the composition of consolidated service pools, the FCC has requested further comment on this issue. The FCC requested user groups and frequency coordinators to submit a proposal that "reflects the interests and needs of the PLMR community, and that is "mutually agreeable, reasonable, and

workable."[2] The FCC also asked for comment on how to create competition in the frequency coordination function. It was emphasized that the intended purpose of consolidating radio services "is to distribute assignments between low-use and high-use groups more evenly, to simplify interservice sharing procedures, to organize channel allocations that will enable licensees to more easily utilize advanced technologies, and to organize the services in such manner to achieve more efficient and flexible spectrum use."[3] Although the FCC decided to consolidate the radio services as a matter of policy in the *Report and Order* in this proceeding, it stated that it would defer issuing final rule amendments until approximately 6 months after the effective date of the *R&O* without further notice.[4]

UTC has participated in numerous industry meetings that were convened for the purpose of discussing service pool consolidation. For some frequency coordination groups, consolidation of service pools is an emotional issue that strikes at the very existence of the coordination group. For others, consolidation threatens the *status quo*, bringing with it the uncertainties of competing with other coordination groups of varying size, staffing, and capabilities. Still others realize that the "good old boy" method of coordinating frequencies for the relatively few licensees in their service could not be maintained if other users are given access to their database and/or their channels. For

---

[2] *FNPRM*, para. 50.

[3] *FNPRM*, para. 51.

[4] *FNPRM*, para. 55.

these and other reasons, the various PLMR user groups and coordination groups have been unable to reach consensus on this issue.

Nevertheless, UTC believes that this proceeding presents an opportunity for the FCC to make a rational consolidation of radio services that will help in the overall administration of the PLMR spectrum and in carrying forward the other rule and policy changes adopted in this docket. The present system of frequency management has adequately served the needs of users and substantially lessened FCC involvement in the coordination and application-review process. However, there is no longer a compelling need for the FCC to maintain 20 separate radio services, and UTC concurs that some consolidation would be appropriate.

B. Services Having the Same Criticality of Function Should Be Consolidated

In earlier comments in this proceeding, UTC stated that its preferred course would be to combine "like" services, but had reservations about reallocating channels shared by more than one service. UTC therefore advocated service pool consolidation along historic channel-sharing patterns; that is, grouping radio services that have shared many of the same channels in order to minimize the need to reallocate channels shared by more than one service.[5]

With the release of the *Report and Order* and its resolution of many of the technical issues in this docket, UTC believes that the most rational basis for service

[5] See "Comments of the Utilities Telecommunications Council" in PR Docket No. 92-235, filed May 28, 1993, pp. 7-11.

consolidation is to look at the relative criticality of the functions served by users in each of the various services. Different industries may use mobile radio for different applications (e.g., locomotive control; law enforcement dispatch; utility service restoration; etc.) but from a coordination and licensing standpoint, differences in the applications or functions supported by the radio transmitter are only significant in terms of the criticality of function and the amount of protection to be afforded to the system. Even within industries, there are wide variations in the types of radio systems and applications supported by licensed radio devices. However, it is possible to group spectrum users in a way that will ensure that "high priority" users have ready access to channels and that any distribution of assignments between "low-use" and "high-use" services will not jeopardize the ability of higher priority users to secure access to channels.

UTC recommends that the current radio services be divided into three service categories, which are ranked according to the relative criticality of these services in accordance with the FCC's mandate to provide radio service "for the purpose of promoting safety of life and property:"[6]

[6] 47 U.S.C. § 151.

NEW CATEGORY	OLD RADIO SERVICES
"Emergency Response"	Police (§ 90.19)
	Fire (§ 90.21)
	Emergency Medical (§ 90.27)
	Special Emergency (§§ 90.33-55)
"Public Service"	Local Government (§ 90.17)
	Highway Maintenance (§ 90.23)
	Forestry-Conservation (§ 90.25)
	Power (§ 90.63)
	Petroleum (§ 90.65)
	Railroad (§ 90.91)
"Business/Commercial"	Forest Products (§ 90.67)
	Film and Video Production (§ 90.69)
	Relay Press (§ 90.71)
	Special Industrial (§ 90.73)
	Business (§ 90.75)
	Manufacturers (§ 90.79)
	Telephone Maintenance (§ 90.81)
	Motor Carrier (§ 90.89)
	Taxicab (§ 90.93)
	Automobile Emergency (§ 90.95)

The "Emergency Services" category includes the radio services that have traditionally been labeled "public safety." However, and as evident from the on-going discussions within the Public Safety Wireless Advisory Committee (PSWAC), the term "public safety" has become so generic in use that it no longer has significance in identifying the radio services needed by public or private authorities to provide law enforcement, fire control, and delivery of emergency medical services. UTC therefore recommends that the term "public safety" be replaced by "Emergency Response" to better describe these services.

The "Public Service" category includes those services that provide critical logistical functions in support of the general population, including public utility services (such as electric, water and gas services). Users in this category are typically state or local government entities, or private entities that provide essential public services in compliance with Federal, State or local requirements. Utilities, for example, are required by law to provide electric, gas and water service to the population in a safe, continuous, and cost-effective manner. Radio communications facilities are needed not only to meet day-to-day requirements, but to provide critical coordination of activities during or following storms and other natural disasters that disrupt the delivery of these vital public services. Some states require the dispatch of a properly-trained employee to any customer-reported emergency within a set time frame (often 60 minutes) after notification to the utility. This would be impossible for utilities with large operating territories if they did not have reliable mobile communications. Thus, in the Public Service category, availability of a clear channel is just as important as the use of that channel.

There are also functional similarities among some of the radio services that would be consolidated in the Public Service category. Utilities, pipelines, railroads, and highway maintenance departments, for example, typically construct radio systems along their extensive rights-of-way, and have unique operating areas that can extend over large geographic areas, including multiple states. In addition, these entities typically use a wide variety of communications devices, from low power telemetry devices to high power communications, signaling or control channels. Although the specific applications associated with these devices might vary, UTC is confident that the coordinators within

the Public Service category would be able to develop a band management plan for this category that would accommodate any truly unique radio systems.

The "Business/Commercial" category would be available to all other private radio users. Even though many of the users in this category could no doubt demonstrate that private radio allows them to conduct business in a safer, more efficient manner, these industries are typically not required to respond to emergency life-and-death situations, nor are they engaged in the delivery of vital public services such that delay of response (such as through delay of communication) would create a threat to life or property.

C. Consolidation Based on Criticality of Function Is Consistent With Other National Policies Regarding Priority Access to Communications Services

In many respects, UTC's proposed restructuring of the Private Land Mobile Radio (PLMR) Services would parallel comparable efforts to prioritize access to public communications services. In 1988, the FCC adopted the "Telecommunications Service Priority" (TSP) System for National Security Emergency Preparedness.[7] Developed in close coordination with the National Communications System, the National Telecommunications and Information Administration, the Federal Emergency Management Agency, and other federal and state agencies, the TSP System represents a unified national policy on the priorities for provisioning and/or restoring telecommunications circuits in the event of general service disruption.

---

[7] See *Report and Order* in Gen. Docket No. 87-505, 3 FCC Rcd 6650 (1988). See also Appendix A, to Part 64 of the FCC's Rules.

Under the TSP system, the following categories have been established for "essential" telecommunications services, ranked in order of highest priority to lowest:

1. National Security Leadership -- including Presidential communications and intelligence communications.
2. National Security Posture and U.S. Population Attack Warning -- including the conduct of diplomatic negotiations and control of military forces.
3. Public Health, Safety, and Maintenance of Law and Order -- including:
   a. Law Enforcement
   b. Continuity of critical state and local government functions
   c. Critical logistic functions and public utility services
   d. Hospitals and distribution of medical supplies
   e. Civil air traffic control
   f. Military assistance to civil authorities
   g. Defense and protection of critical industrial facilities
   h. Transportation to accomplish the foregoing functions
4. Public Welfare and Maintenance of National Economic Posture - including:
   a. Distribution of food and other essential supplies
   b. Prevention and control of environmental hazards or damage.
   c. Transportation to carry out these functions.[8]

From this, it will be noted that the services included in UTC's "Emergency Response" and "Public Service" categories are generally those that would also qualify for priority restoration of public communications services under the TSP system. It would be incongruous, and bad public policy, for the FCC to regroup PLMR services in a manner

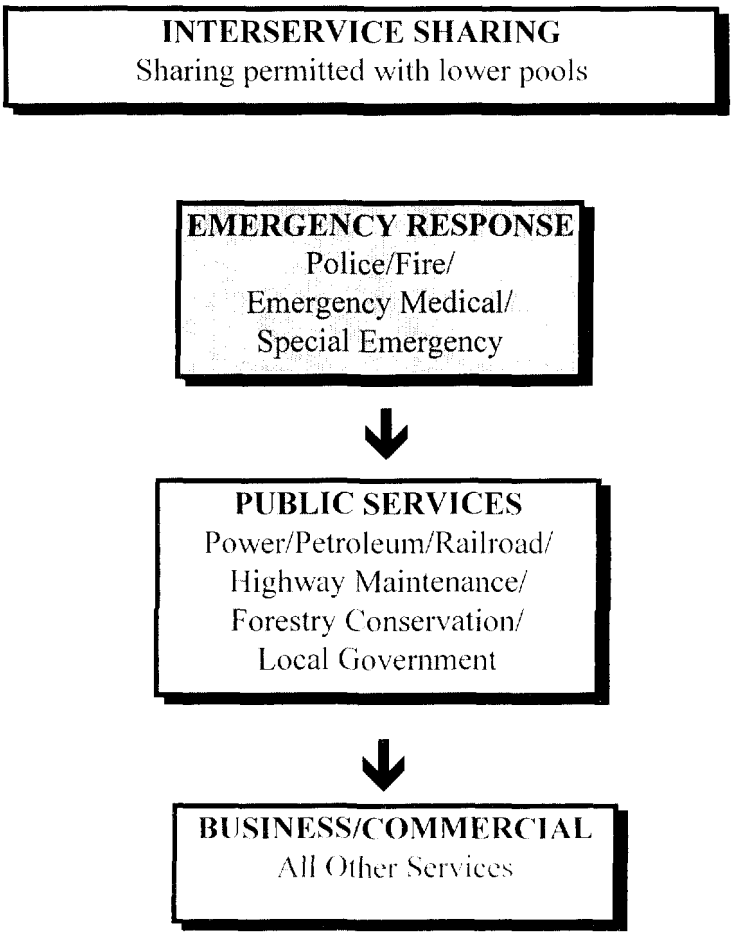
[8] See Appendix A to Part 64 of the FCC's Rules.

that would diminish the ability of these priority users to access private spectrum when they would otherwise qualify for priority access to public telecommunications services.[9]

D. Interservice Sharing Should Be Permitted Only Into Lower Ranked Services

To the extent channels cannot be secured within an applicant's consolidated service pool, UTC recommends that interservice sharing be permitted from a higher-ranked service to a lower ranked service, but not *vice versa*. That is, Emergency Response eligibles could secure access to channels in the Public Service or Business/Commercial category; and Public Service eligibles could secure access to channels in the Business/Commercial category. By precluding interservice sharing from lower-priority services into higher-priority services, the channels needed for these services will be preserved. In any event, UTC suspects that the need for interservice sharing will be minimal if the current radio services are consolidated as proposed.

[9] For all of these reasons, if the Commission believes there should be only one "public service" category, UTC recommends that the services included in "Emergency Response" and "Public Service" should be included in a unified "Public Safety" category.



E. Channels Currently Shared By More Than One Service Should Be Reallocated To The New Categories Based on An Assessment of Loading, Criticality of Use, and Other Factors

Admittedly, regrouping of the services will require certain channels that are currently shared among several services to be reallocated to one of these three service categories. However, this would not require any modification of existing systems, nor would it be as difficult as might be assumed. First, because of the current rules on intercategory sharing (§ 90.176), many entities are licensed on out-of-category channels. UTC, for one, is not aware of any significant problems arising from these licensees being

assigned out-of-category channels. Thus, no significant problems are anticipated if a channel is "reallocated" to a new service category as a result of service pool consolidation. Second, it is anticipated that many, if not most, licensees will eventually change frequencies as a result of the migration to narrowbanding. At that time, a licensee wishing to narrowband could request (indeed, should request) to be licensed on a channel in its own service category. Thus, as a result of the narrowbanding process itself, the pools will naturally realign to include licensees who are eligible for that category.

In reallocating shared channels to the three service categories, UTC recommends making the distribution based on an assessment of factors such as channel loading, areas of operation, criticality of use, and airtime. For example, where several channels are shared between two services that would be consolidated into separate pools, their shared channels could be divided based on a weighting of these factors. An attempt should also be made to allocate contiguous channels to each service category in order to facilitate channel-stacking.

F. Subject to Appropriate Standards to Preclude "Coordinator Shopping," Competitive Coordination Within a Service Category Is Feasible

With respect to frequency coordination, UTC is confident that the coordinators in each pool will be able to devise means of exchanging data either real-time, using a shared database, or by providing notice (such as by fax or e-mail) and a limited opportunity for response. However, because this latter method would be labor-intensive and time-

consuming, UTC suspects that most coordinators will find it beneficial to work toward an open-access database. UTC understands from its own database provider, CET, that it would be relatively easy for multiple coordinators to share a database or for coordinators to exchange data electronically to maintain their separate databases.[10]

UTC has serious concerns about the prospect of "coordinator shopping" in a competitive coordination environment (that is, an applicant securing coordination simply based on price, with no consideration of quality). One would hope that the marketplace would identify coordinators that do not offer "quality" service, but quality of frequency coordination is difficult to assess in the current environment where there are very few standards for coordination. UTC therefore recommends that the FCC adopt sufficiently narrow standards for frequency coordination, and limit coordination of channels in a pool to only those coordinators that have been certified to coordinate eligibles in that pool.[11]

In deciding how to consolidate the various radio services, UTC urges the FCC to consider the long-term prospects of such a decision. While it might be most convenient, in the short-term, to consolidate services that have historically shared channels, this would not necessarily offer protection to the critical "emergency" or "public service" entities that must be able to secure access to clear communications channels. Likewise, allowing one service to remain a separate service simply because it has historically

---

[10] UTC is currently able to exchange coordination data with other coordination groups that subscribe to the CET system.

[11] Allowing a coordination group to coordinate channels for any applicant in any service category would eviscerate the goal of having coordination groups that are representative of the users in the radio service.

coordinated its own channels under a private band management plan will not contribute to the more efficient use of these scarce channels.

UTC firmly believes that the plan it is proposing will (1) preserve access to clear spectrum for those users who provide emergency safety-of-life services and other critical public services, (2) allow flexibility in spectrum management and use among the like-kind users in each service category; and (3) more equitably distribute channels among all categories of users.

II. RESPONSE TO ISSUES RAISED IN THE FNPRM

A. The Rules Should Enable Licensees To "Earn" Exclusivity

While UTC does not share the Commission's presumption that a shared radio environment is inherently inefficient, UTC does see a benefit in affording private land mobile radio licensees the option to obtain a form of exclusivity. Access to spectrum in which the licensee is assured interference protection from additional licensees will allow for the introduction of trunking and other technologies that require the availability of dedicated frequencies. Given the unique attributes of the three service categories -- Emergency Response; Public Service; and Business/Commercial -- it may be necessary to address the issue of exclusivity in different manners.

Emergency Response Pool

The police, fire and emergency medical services that would comprise the Emergency Response Service already operate with a form of *de facto* exclusivity. The

critical nature of these services is such that frequency coordinators such as the Association of Public-Safety Communications Officials-International (APCO) provide a large degree of channel exclusivity to prevent harmful interference and to ensure channel availability in times of emergency. Therefore, according to APCO, exclusivity is already a practical reality for most of the Emergency Response services, and would not provide any additional incentives to implement more spectrum efficient technology.[12]

Public Service Pool

Recognizing the importance of the services that would make up the Public Service Pool, and the need to protect these operations from disruption, it would be highly impractical to attempt to create true exclusivity on the Public Service Pool spectrum below 512 MHz. Instead, UTC supports the creation of a "shared-exclusivity" licensing option for the Public Service Pool, under which a licensee may "earn" protection for a specific service area. Specifically, existing licensees would have the option to enter into contractual agreements with neighboring co-channel licensees to establish areas of exclusive assignment, thereby precluding new co-channel licensees from being licensed within the area, except by mutual agreement of all parties to the exclusivity plan. To earn the shared-exclusivity protection cap on new assignments, all licensees on the channel must agree to convert to narrowband technology, or meet an equivalent efficiency standard within a specified time period. A single existing licensee could request

[12] Petition for Reconsideration and Clarification by APCO in PR Docket No. 92-235, filed August 18, 1995, p. 4.

exclusivity over the extent of its service area if there are no other co-channel licensees in the area.

Rather than basing the protected zone of the shared exclusivity license on an arbitrary predetermined geographic basis, UTC proposes that a licensee's shared-exclusivity radius be tied to its system size, as determined by the FCC's power/height tables. While the distance separation tables are primarily intended as guidelines for frequency coordinators, a licensee could request enforceable rights under these tables by securing concurrence from all co-channel licensees within the co-channel separation radius. Each licensee could select the area within which it wants protection from co-channel users by securing concurrence from all, co-channel users within that radius. The licensee would then be able to enforce the separation distances in the table against co-channel applicants up to the radius within which it has secured concurrence.

To provide licensees a reasonable opportunity to reach an agreement, licensees could request the frequency coordinator(s) to stop processing requests for new co-channel assignments in their geographic area for a period of 90 days while an agreement is negotiated. Upon reaching an agreement the parties would jointly notify the Commission and the applicable frequency coordinator(s). Upon notification the FCC would grant a shared-exclusivity license and the applicable frequency coordinator(s) would permanently suspend additional licensing on the relevant frequencies.

In order to earn shared exclusivity all of the co-channel licensees that are party to the agreement would have to convert to the then-applicable narrowband or equivalent

efficiency technology within twelve months of the grant of the exclusivity. The shared exclusivity option should be limited to existing licensees. In this way, the FCC will eliminate speculators and provide an incentive for existing licensees to implement more advanced and spectrally efficient systems.

The shared exclusivity option appears to be particularly suited to those entities that would compromise the Public Service Category. Like the Emergency Response Services, public service entities, such as utilities, pipelines and state and local governmental agencies, often have *de facto* exclusivity in order to ensure secure and reliable communications. Further, these entities are more likely than other private land mobile users to have extensive service territories that would benefit from the wide-area trunked systems that shared exclusivity would allow. Finally, shared exclusivity may be more viable in the Public Service Category as the more limited number of eligibles and similar functionalities between licensees affords a greater likelihood of co-channel licensees reaching a mutual agreement.

Business/Commercial Pool

The mechanism of shared exclusivity may also be appropriate in limited cases in the Business/Commercial Category. However, recognizing the proliferation of existing licensees and widely disparate services that would comprise the Business/Commercial Category, shared exclusivity may not be practical in many areas of the country for this service pool.[13]

[13] Changes to the FCC's spectrum auctioning authority contained in the pending Seven-Year Balanced Budget Reconciliation Act of 1995, H.R. 2491, may also impact the

B. Resale With Certain Restrictions Should Be Allowed

The FCC proposes to permit private land mobile licensees to lease "**excess**" capacity on their systems. UTC believes that the rules and requirements should preserve the private land mobile radio bands to the extent possible for private internal communications requirements. However, UTC concedes the spectrum efficiency benefits of limited resale authority within the private bands. Specifically, UTC supports the concept of allowing a "non-commercial" private land mobile radio licensee to lease "**reserve**" capacity on its system.[14]

The difference between UTC's proposal and the Commission's is not merely semantic. Excess capacity implies that the licensee has overbuilt its system beyond its actual requirements. A licensee with excess capacity does not intend to utilize the additional capacity on its system on an internal basis under any conditions. Licensing in such a manner is an inefficient use of spectrum and would encourage speculation to the detriment of true private land mobile radio licensees. On the other hand, "reserve" capacity is capacity for which the licensee has a legitimate system requirement but at times may not be utilized. An example would be a utility system with reserve capacity that is necessary for service restoration during emergency storm conditions but which

---

manner in which the Commission may implement exclusivity for the licensees in the Business/Commercial Category.

[14] All licensees should continue to be able to provide capacity on an "at-cost" or non-profit basis provided that they have demonstrable loading requirements at the time of application.